

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PRESERVE OUR ISLANDS, a Washington Non-profit Corporation; PEOPLE FOR PUGET SOUND, a Washington Non-profit Corporation; WASHINGTON ENVIRONMENTAL COUNCIL, a Washington Non-profit Corporation;

NO. C08-1353-RSM

DECLARATION OF
DAVID A. BRICKLIN IN SUPPORT
OF PLAINTIFFS' MOTION FOR
FEES AND EXPENSES

U.S. ARMY CORPS OF ENGINEERS, et al

Defendants,

and

NORTHWEST AGGREGATES COMPANY,

Defendant-Intervenors.

I, David A. Bricklin, declare as follows:

1. I was retained by David S. Mann, plaintiffs' attorney, to provide my opinion as to the reasonableness of the hourly rates of Mr. Mann and his associates Brendan Donckers and Ashley Peck in this litigation.

DECLARATION OF DAVID A. BRICKLIN
(C08-1353-RSM)-1

GENDLER & MANN, LLP
1424 Fourth Avenue, Suite 1015
Seattle, WA 98101
Phone: (206) 621-8868
Fax: (206) 621-0512

1 2. My background and experience qualify me to render an opinion on
2 plaintiffs' counsel's hourly rates.

3 3. I graduated from Harvard Law School in 1977. I have been a partner in
4 private practice in Seattle since 1981 with an emphasis on environmental and land use law.
5 I was a co-author of the State Superfund Law (Model Toxics Control Act) and a primary
6 contributor to the Growth Management Act. I have litigated cases under the National
7 Environmental Policy Act and the parallel State Environmental Policy Act frequently,
8 including *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 109 S.Ct. 1835
9 (1989). Under *Robertson*, we were awarded attorneys' fees under the Access to Justice
10 Act.

11 4. Because my practice involves land use and environmental litigation, I am
12 familiar with the rates charged by various colleagues in the Seattle market.

13 5. In preparing this declaration, I have briefly reviewed plaintiffs' opening and
14 reply briefs, the response briefs of the federal defendants, and this court's ruling. I have
15 also reviewed the resumes for Mr. Mann, Mr. Donckers and Ms. Peck

16 6. Mr. Mann was admitted to practice in Washington in 1991. He is also
17 admitted in and has tried cases in the Federal District Courts in Washington and before the
18 U.S. Court of Appeals. I have also personally known Mr. Mann for 18 years and am very
19 familiar with his work as an attorney. I am aware of Mr. Mann's reputation in the legal
20 community, which is excellent. I believe that Mr. Mann's hourly rate of \$325.00 per hour
21 in 2008 and \$350 per hour in 2009 is exceedingly reasonable (*i.e.*, well below market
22 rates) for the Seattle market given his extensive experience and knowledge of federal and
23 state environmental law.

24
25
26
27
28
DECLARATION OF DAVID A. BRICKLIN
(C08-1353-RSM)- 2

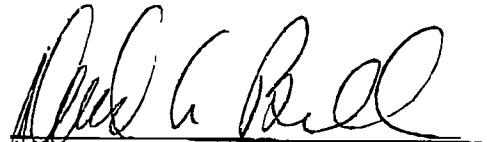
GENDLER & MANN, LLP
1424 Fourth Avenue, Suite 1015
Seattle, WA 98101
Phone: (206) 621-8868
Fax: (206) 621-0512

1 7. I believe that an hourly rate of \$200.00 per hour for an associate attorney is
2 very reasonable for the Seattle market, too.

3 8. I do not believe it would be possible for plaintiffs to have retained an
4 experienced NEPA and ESA litigator at anywhere close to the \$150/hour rate set out in 28
5 U.S.C. 2412 (even with the annual adjustment for inflation).

6
7 I declare under penalty of perjury under the laws of the State of Washington that
8 the foregoing is true and correct.

9 Dated this 11th day of September, 2009, in Seattle, Washington.

10
11
12 
13 David A. Bricklin

28

DECLARATION OF DAVID A. BRICKLIN
(C08-1353-RSM)- 3

GENDLER & MANN, LLP
1424 Fourth Avenue, Suite 1015
Seattle, WA 98101
Phone: (206) 621-8868
Fax: (206) 621-0512